Amendment to the Constitution of the United States. The latter decision was affirmed by the United States Supreme Court in *Kidd* v. *Musselman,* 217 U. S. 461, following *Lemieux* v. *Young,* 211 U. S. 489. The Indiana act was attacked on practically the same grounds as similar acts in other States have been assailed, *i. e.,* an undue exercise of the police power in restricting the power to contract, and also that such an act constitutes special legislation contrary to provisions of the State constitutions. The court in the principal case answers these objections in much the same way as in the Michigan cases above cited. See also the following cases holding Bulk Sales Acts to be constitutional: *Young* v. *Lemieux,* 79 Conn. 434; *Squire* v. *Tellier,* 185 Mass. 18; *Thorpe* v. *Pennock Mercantile Co.,* 99 Minn. 22, 108 N. W. 940; *Williams* v. *Fourth National Bank,* 15 Okla. 477; *Wilson* v. *Edwards,* 32 Pa. Sup. Ct. 295; *Neas* v. *Borches,* 109 Tenn. 398; *McDaniels* v. *Connelly,* 30 Wash. 549. For a review of Bulk Sales Acts, see 7 MICH. L. REV. 504, showing that in 30 States of the Union, and also in the District of Columbia, such acts are in operation after having been tested in the courts as to their constitutionality. It is proper to say that in the cases of *Black* v. *Schwartz,* 27 Utah 387; *Miller* v. *Crawford,* 70 Ohio St. 207; *Wright* v. *Hart,* 182 N. Y. 330; *Off* v. *Morehead,* 235 Ill. 40, statutes quite similar to the Michigan and Indiana acts were held unconstitutional, but, as pointed out in the principal case, these cases were rendered previous to the decision in the United States Supreme Court in *Lemieux* v. *Young supra.* Since the above decisions, Utah and New York have reenacted laws modified so as to meet the decisions while the Ohio act had a penal clause attached and therefore was distinguishable from the one in question. As for Illinois, the courts of that State refuse to heed the decisions of other States, holding the act unconstitutional on the ground that it is class legislation and in restraint of freedom of contract. *Off* v. *Morehead, supra.* For an interpretation of the Michigan Act, see 10 MICH. L. REV. 247.

WILLS—CONTRACT TO DEVISE OR BEQUEATH—SPECIFIC PERFORMANCE.—Plaintiff and her husband agreed that upon the predecease of either the survivor should have the entire estate of decedent. Accordingly, they executed reciprocal wills which remained unchanged and unrevoked until plaintiff's husband, four days before his death, executed another will. Plaintiff prayed for specific performance of the contract and that she be decreed the owner of deceased's estate. Upon demurrer, *held,* that the plaintiff by living up to her agreement was entitled to a specific performance of the contract, as against the heirs, executors, etc. *Brown* v. *Webster et al.* (Neb. 1912), 134 N. W. 185.

Unquestionably an agreement on valid consideration to devise property is as binding as any other obligation. While the revocatory nature of a will may prevent any enforcement during the contractor's life time, yet no excuse is furnished thereby for the breach of the contract. SCHOULER, WILLS, § 453. *Dufour* v. *Pereira,* 1 Dick. 419; *Parsell* v. *Stryker,* 41 N. Y. 480; *Bruce* v. *Moon,* 57 S. C. 60. If an adequate relief is unobtainable at law, such a contract is valid in equity even to the extent of decedent's entire estate. *Sharkey* v. *McDermott,* 91 Mo. 647. This may be in effect specific performance, *Jaffee*

v. *Jacobson,* 48 Fed. 21, 1 C. C. A. 11, and has been refused when entailing hardship or injustice to innocent third parties. *Owens* v. *McNally,* 113 Cal. 444. Such relief is often times, as in the principal case, termed specific performance, yet it should be noted that strictly speaking an agreement to make a certain disposition of property by will "is not capable of specific execution in the party's life-time, and after his death it is no longer possible to make" a will for the decedent. 3 PARSONS, CONTRACTS, Ed. 9, § 406. Thus as pointed out by ROOT, J., in an opinion concurring in the final judgment in the principal case the remedy should be effected by holding the beneficiaries under the will to be trustees of the property for the benefit of the plaintiff. See PAGE, WILLS, § 79. *Bolman* v. *Overall,* 80 Ala. 451.

WILLS—REVIVAL BY REVOCATION OF REVOKING INSTRUMENT—RE-PUBLICATION.—Deceased executed a second will which contained a clause revoking her first will. A short time after its execution, she destroyed this last testament under circumstances that evidenced an intention to revive the former will, which she had always retained in her possession. *Held,* that the destruction did not raise any presumption of revival, but that the question depended upon the testator's intent, which might be shown by parol evidence. *Blackett* v. *Ziegler* (Iowa 1911), 133 N. W. 901.

Of the conflicting rules governing the revival of a former will under the above circumstances, the court chose the one which was first laid down in the English ecclesiastical courts. There it was held that the testator's intent should govern, the legal presumption being considered "neither adverse to, nor in favor of" the former will. *Usticke* v. *Bawden,* 2 Add. Ecc. 116; SCHOULER, WILLS, Ed. 3, § 413. The common law tribunals had decided that a presumption arose in favor of the earlier will. PAGE, WILLS, § 271. Lord MANSFIELD in *Harwood* v. *Goodright,* 1 Cowp. 91. This rule was established without reference to a distinction made in a number of American decisions between the cancellation of a second will merely inconsistent with the prior one, and of one that expressly revoked the prior instrument. Some courts allow a revival in the first instance, the revocation being by implication alone; that would not allow a prior will to be revived when the revocation is express. So in *Scott* v. *Fink,* 45 Mich. 241, 246, Judge GRAVES, after contrasting the two modes of revocation, says the addition of an express revoking clause is "unequivocal" and the destruction of the revoking instrument cannot effect the revival of the revoked will. A number of States are in accord, and do not allow a revival of a revoked will except by re-execution, see 30 AM. & ENG. ENCYC. OF LAW, 658, but in the absence of a statute requiring a formal republication, the weight of authority is with the doctrine enunciated by the ecclesiastical courts and just adopted by the Iowa Supreme Court. *Pickens* v. *Davis,* 134 Mass. 252; *Stetson* v. *Stetson,* 200 Ill. 601. This certainly seems the logical rule to effect the testator's wishes. To require a republication or re-execution of the will would frustrate his attempt to dispose of his estate, while if the destruction of the revoking instrument operated *ipso facto* to revive the prior will the result might be the probate of an instrument, the very existence of which had been forgotten by the testator. It can not be a dangerous doctrine when the intent is fully established by admissible parol evidence of "disinterested witnesses."